

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

Carrie M. Leo,
Plaintiff,

- v -

New York State Department of Environmental Conservation & the United States Department of Agriculture and the following INDIVIDUALS, in their individual and official capacities: BASIL SEGGOS - Commissioner, WILLIAM POWELL - Lieutenant/Captain, DEC Division of Law Enforcement; JOSEPH THERRIEN - Director, DEC Special Licenses Unit, The United States Department of Agriculture("USDA"), United States Department of Agriculture's Animal & Plant Inspection Service ("APHIS"), ANDREA D'AMBROSIO - USDA Animal Care Inspector, and John/Jane Does #2-15,

Defendants.

Civil Action No. 6:2020cv07039-FPG

STATE OF NEW YORK
WAYNE COUNTY

} ss:

PLAINTIFF'S RESPONSE AND REQUEST

The Plaintiff, Carrie M. Leo, ("the Plaintiff") submits this Affidavit in response to docket entries dated September 28, 2021, and September 29, 2021, and defense counsel, Kathryn L. Smith's letter filed on September 28, 2021. The following statements are offered to the Court under the penalty of perjury as to the content's accuracy and truth. To the extent of the Plaintiff's understanding of what constitutes frivolous pleadings and supporting affidavits, the following does not constitute as such.

Plaintiff was given a deadline of September 17, 2021, to file a response to the federal defendant's *Motion to Dismiss* (ECF No. 35, filed 8/28/2021).

Plaintiff met the deadline by sending in an electronic version of her responding affidavit to the Court via CD-ECFIntake_nywd@nywd.uscourts.gov on September 16, 2021 (See Exhibit 1). Likewise, the same electronic version was sent to both the federal and state defendants via

electronic mail. (See Exhibit 2) It is understood that sending an email with filings attached to the court using the ECF email address will not yield an actual filing of the documents. However, the plaintiff uses this option **in addition to** USPS mailing to the court **and** either USPS or email for both the federal and state defendants to be able to validate that the papers were completed by the deadline. Since the plaintiff cannot electronically file the documents because of her status as a self-represented litigant, she does not have the same amount of time to complete the production of any papers since she has to allow five days of mailing time for them to reach the courthouse. Hence, if the plaintiff needs more time to complete the papers and it cuts into the five days prior to the deadline during which the papers must be in the mail to make the deadline to the court, the plaintiff will send the papers as usual via mail and she also will email them to the Court. Should the Court need to confirm the plaintiff finished her papers by the deadline, it may refer to the email sent and compare the papers sent to them via email by the deadline with the papers received by the Court via USPS mail which may not reach the courthouse before the deadline if the plaintiff needed part of all of the five days mailing time to complete the production of the papers.

The plaintiff sent both the Plaintiff's Request for Leave to File an Amended Complaint and Plaintiff's Response in Opposition to Defendant USDA's *Motion to Dismiss* via USPS First Class on September 14, 2021, as indicated in Exhibit 3 which contains the postal service receipt showing the physical mailings I sent to Ms. Smith, Mr. Crain and the Courthouse in Rochester, NY. Also Exhibit 4 contains the cover letter included with the mailings to all three entities. Likewise, Exhibit 5 contains the Certificate of Service included with the two filings sent on September 14, 2021.

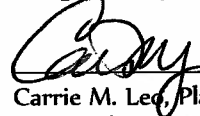
Although the USPS rarely makes mistakes, the papers were completed by the deadline and sent to the Clerk of the Court at the United States District Court – 100 State Street, Rochester, NY 14614. Hence, Plaintiff followed the rules of the Court when mailing the papers to the Court by

the deadline. As you know I don't have control over what happens to mailings after they are in the custody of the post office. However, I have submitted a request the post office investigate the matter in case the mailings were prevented from reaching the Court as a result of any actions from its staff.

Plaintiff also respectfully requests a one-week extension from the current deadline or the date of receipt of this request, whichever is later, in order to complete the *Amended Complaint*. It requires significant research and theory in preparation of my arguments I plan to present to the Court and Defendants. I also need to meet with counsel for discussion as part of the preparation of the amendments I wish to make to the pleading.

Date: October 5, 2021

Respectfully Submitted,

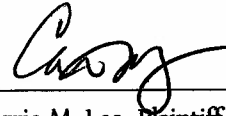


Carrie M. Leo, Plaintiff
3199 Walworth Road
Walworth, NY 14568
Ph: (315) 538-8316
Email: carrieleo15@gmail.com

VERIFICATION

To the best of my knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the presentation of this affidavit or the contentions therein are not frivolous or false. It is also put forth that all exhibits are true and correct representations of what they are stated to be.

Date: October 5, 2021

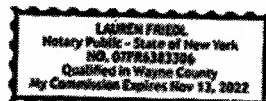


Carrie M. Leo, Plaintiff *pro se*
3199 Walworth Road
Walworth, NY 14568
ph: (315) 538-8316
e-mail: carrieleo15@gmail.com

Sworn to before me this 5th of October 2021



Notary Public



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing affidavit was transmitted electronically by means of the court's electronic case filing system's email CM-ECFIntake_oked@oked.uscourts.gov and emailed to the following parties using each's individual email address as noted below. The Court and both the New York State and Federal Defendants were also served by USPS First Class Mail on October 5, 2021, at the 100 State Street Rochester, NY 14614 and the following addresses, respectively.

JAMES P. KENNEDY JR.

United States Attorney

KATHRYN L. SMITH

Assistant United States Attorney

Western District of New York

U.S. Attorney's Office Rochester

100 State St., 5th Floor

Rochester, NY 14614

(585) 263-6760

Fax: (585) 263-6226

Kathryn.L.Smith@usdoj.gov

ATTORNEY FOR FEDERAL DEFENDANTS

LETICIA A. JAMES

New York State Attorney General's Office

MICHELE ROMANCE CRAIN

Assistant Attorney General

Department of Law

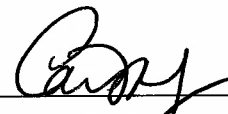
144 Exchange Blvd.

Rochester, NY 14614

(585) 327-3223

Michele.Crain@ag.ny.gov

ATTORNEY FOR NEW YORK STATE DEFENDANTS



Carrie M. Lee, Plaintiff

3199 Walworth Road

Walworth, NY 14568

315.538.8316

carrieleo15@gmail.com

EXHIBIT 1

Email sent to CD-ECFIntake_nywd.uscourts.gov

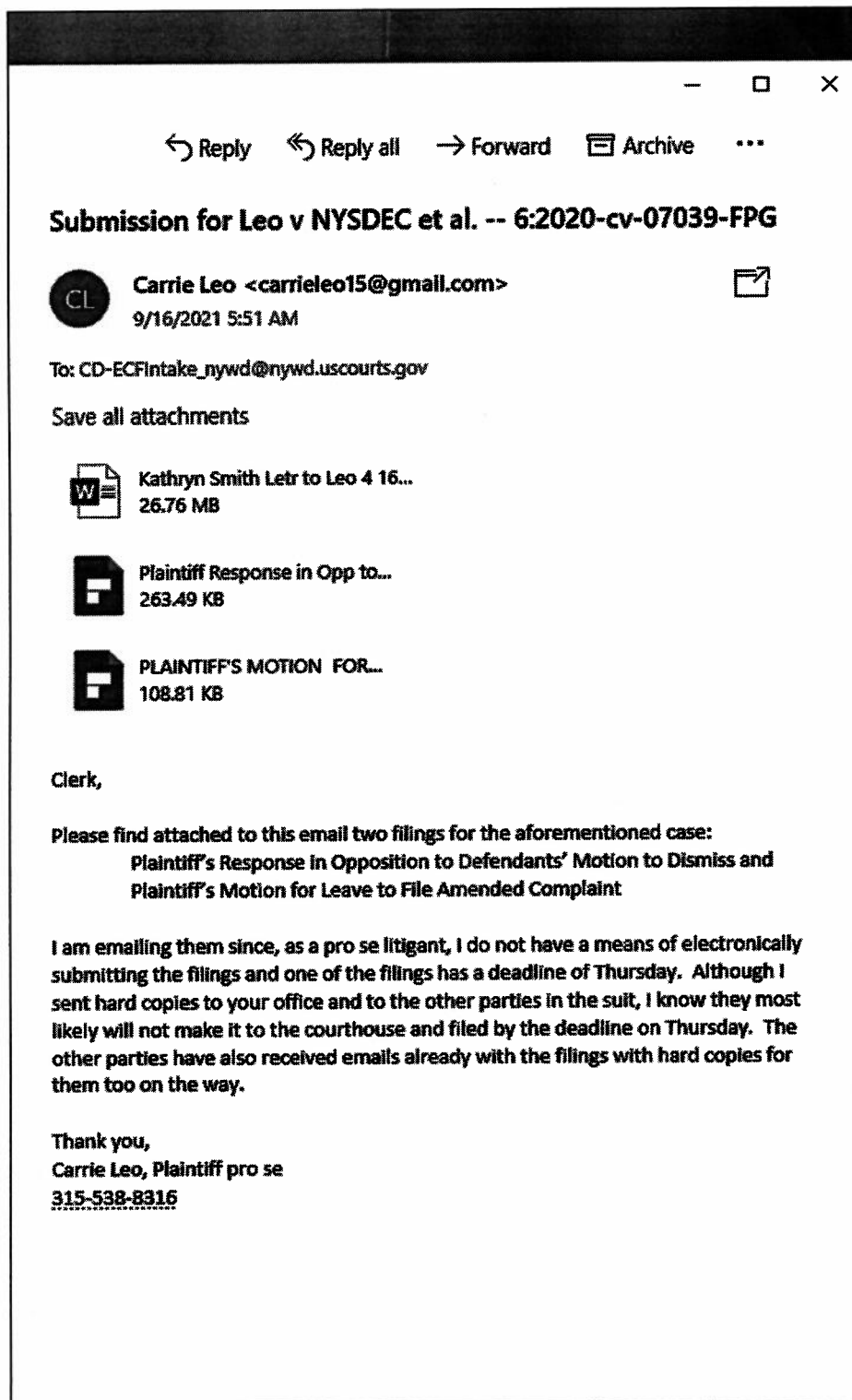


EXHIBIT 2

Email sent to federal defense counsel, Ms. Smith and state defense counsel, Mr. Crain, via their respective emails.

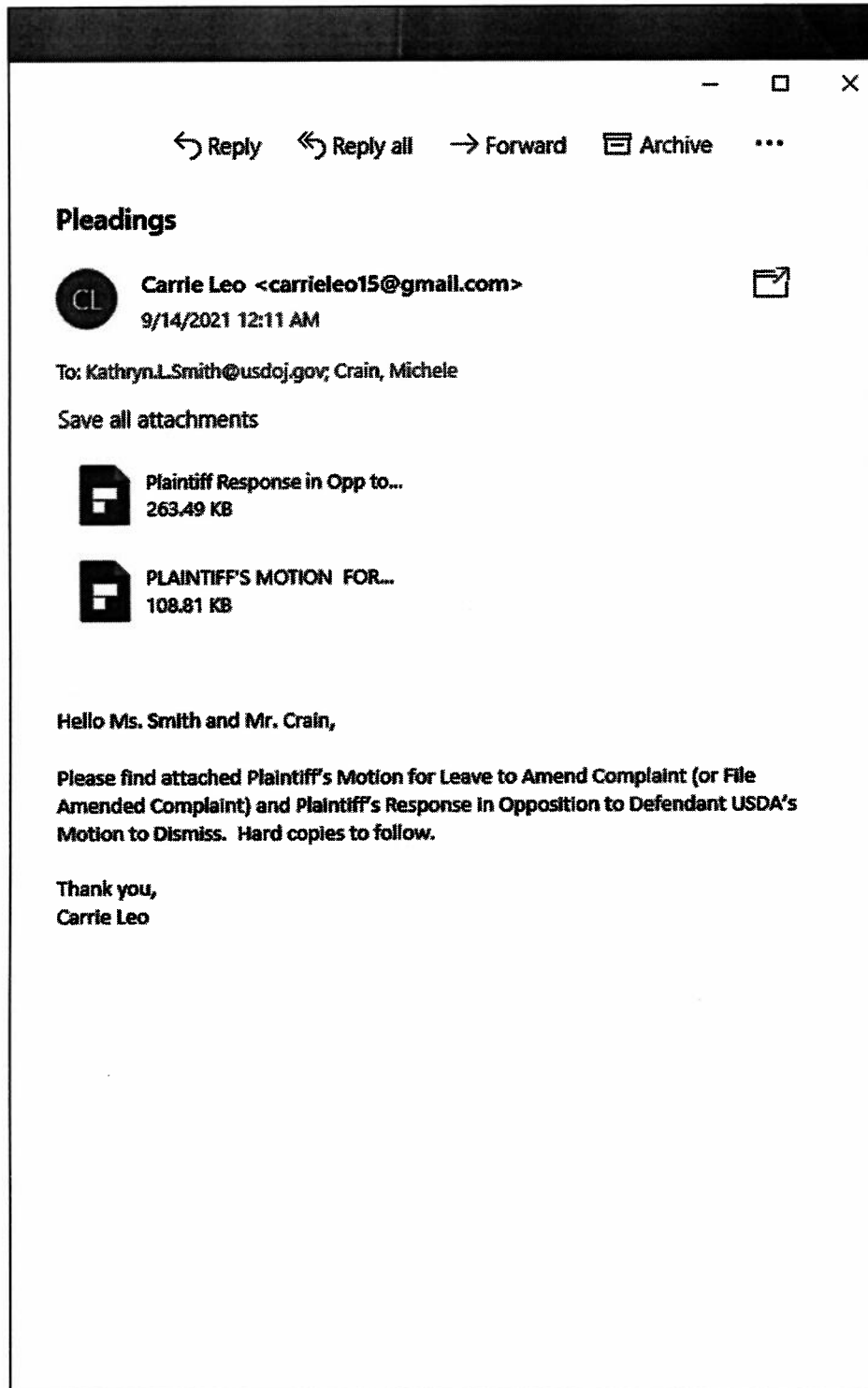


EXHIBIT 3

USPS Receipt

UNITED STATES POSTAL SERVICE

WALWORTH
2263 WALWORTH MARION RD
WALWORTH, NY 14568-9998
(800)275-8777

09/14/2021 02:44 PM

Product	Qty	Unit Price	Price
First-Class Mail® Large Envelope Rochester, NY 14614 Weight: 0 10 3.90 02 Estimated Delivery Date Fri 09/17/2021	1		\$1.76
First-Class Mail® Large Envelope Rochester, NY 14614 Weight: 0 10 4.00 02 Estimated Delivery Date Fri 09/17/2021	1		\$1.76
First-Class Mail® Large Envelope Rochester, NY 14614 Weight: 0 10 4.00 02 Estimated Delivery Date Fri 09/17/2021	1		\$1.76

Total \$9.05

Grand Total: \$32.93

Credit Card Resulted \$32.93

Card Name: MasterCard
Account #: 1000XXXXXX9726
Approval #: 028418
Transaction #: 020
ATD: A0000000401010 Chip
AL: MASTERCARD
PIN: Not Required CAPITAL ONE

USPS is experiencing unprecedented volume increases and limited employee availability due to the impacts of COVID-19. We appreciate your patience.

Text your tracking number to 28777 (2USPS) to get the latest status. Standard Message and Data rates may apply. You may also visit www.usps.com USPS Tracking or call 1-800-222-1811.

Save this receipt as evidence of insurance. For information on filing an insurance claim go to <https://www.usps.com/help/claims.htm>

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Sign up for FREE @ <https://informedelivery.usps.com>

Earn rewards on your business account purchases of Priority Mail labels with the USPS Loyalty program by using Click and Ship. Visit www.usps.com/emailbizloyalty for more info.

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or call 1-800-410-7420.

UFN: 358880-0568
Receipt #: 840-51400210-2-2801246-2
Clerk: 04

9/14/2021	6:20-cv-07039	USPS	n/a	To: Kathryn S. Smith - U.S. Attorney General's Office - 100 State St., Rochester, NY 14614 Re: Motion for Leave to File First Amended Complaint & Plaintiff's Response in Opposition to Defendants' Motion to Dismiss
9/14/2021	6:20-cv-07039	USPS	n/a	To: U. S. District Court for the Western District of New York - 100 State Street, Rochester, NY 14614 Re: Motion for Leave to File First Amended Complaint & Plaintiff's Response in Opposition to Defendants' Motion to Dismiss
9/14/2021	6:20-cv-07039	USPS	n/a	To: Michele Romance Crain, Esq. - NYS Attorney General's Office Dept. of Law, 144 Exchange Blvd., Rochester, NY 14614 Re: Motion for Leave to File First Amended Complaint & Plaintiff's Response in Opposition to Defendants' Motion to Dismiss

close-up

UNITED STATES POSTAL SERVICE

WALWORTH
2263 WALWORTH MARION RD
WALWORTH, NY 14568-9998
(800)275-8777

09/14/2021 02:44 PM

Product	Qty	Unit Price	Price
First-Class Mail® Large Envelope Rochester, NY 14614 Weight: 0 10 3.90 02 Estimated Delivery Date Fri 09/17/2021	1		\$1.76
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First-Class Mail® Large Envelope Rochester, NY 14614 Weight: 0 10 3.90 02 Estimated Delivery Date Fri 09/17/2021	1		\$1.76

EXHIBIT 4

Cover Letter Dated September 13, 2021

September 13, 2021

VIA USPS
VIA EMAIL CD-ECFIntake_nywd@nywd.uscourts.gov
U.S. District Court for the Western District of New York
2120 Kenneth B. Keating Federal Building,
100 State Street
Rochester, NY 14614
ph: (585) 613-4000 | fax: (585) 613-4035
CD-ECFIntake_nywd@nywd.uscourts.gov

COPY

RE: *Leo v NYSDEC et al.* (6:2020-cv-07039-FPG)

Dear Court Clerk,

Please find enclosed *Plaintiff's Response in Opposition to Defendants' Motion to Dismiss and Plaintiff's Motion for Leave to Amend Complaint*.

Please feel free to contact me should you have any questions or concerns. Thank you for your assistance in this matter.

Thank you.



Carrie M. Leo, Plaintiff

enclosures

cc: JAMES P. KENNEDY, JR.
United States Attorney
KATHRYN L. SMITH
Assistant United States Attorney
Western District of New York
100 State Street, 5th Floor
Rochester, New York 14614
(585) 263-6760
Kathryn.L.Smith@usdoj.gov

LETICIA A. JAMES
New York State Attorney General's Office
MICHELE ROMANCE-CRAIN
Assistant Attorney General
144 Exchange Blvd.
Rochester, New York 14614
(696) 327-3223
Michèle.Crain@ag.ny.gov

USPS TRACKING#




9590 9402 4972 9063 9782 37

United States Postal Service

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

* Sender: Please print your name, address, and ZIP+4® in this box*

Carrie M. Leo
3199 Walworth Road
Walworth, NY 14568

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY		
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. <p>U.S. District Court-Western NY 2120 Kenneth B. Keating Fed. Bldg. 100 State St., 5th Floor Rochester, NY 14614</p>  <p>9590 9402 4972 9063 9782 37</p> <p>2. Article Number (Transfer from service label)</p>	<p>A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type</p> <table border="0"> <tr> <td> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) </td> <td> <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery </td> </tr> </table>	<input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	<input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	<input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery		

PS Form 3811, July 2015 PSN 7530-02-000-9033 Domestic Return Receipt

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

OFFICIAL USE

Certified Mail Fee

Extra Services & Fees (check box, and fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

Postage

Total Postage and Fee

Sent to

Street and Apt. No.

City, State, ZIP+4®

Postmark Here

U.S. District Court-Western NY
2120 Kenneth B. Keating Fed. Bldg.
100 State St., 5th Floor
Rochester, NY 14614

PS Form 3800, April 2012

Carrie M. Leo
3199 Walworth Road
Walworth, NY 14568

CERTIFIED MAIL



7021 0350 0002 1877 0720

U.S. District Court - Western District of N
2120 Kenneth B.
Keating Federal Building,
100 State Street
Rochester, NY 14614

FIRST CLASS

2 M. Leo
Walworth Road
Rochester, NY 14568

CERTIFIED MAIL



7021 0350 0002 1877 0720



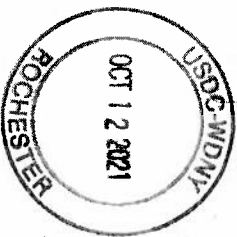
1000



14514

U.S. POSTAGE PAID
FCM LG ENV
WALWORTH, NY
14568
OCT 07-21
AMOUNT
\$8.36
R2305M144083-04

U.S. District Court - Western District of NY
2120 Kenneth B.
Keating *Federal* Building
100 State Street
Rochester, NY 14614



FIRST CLASS

RETURN RECEIPT
REQUESTED